

# STATE OF INDIANA

DEPARTMENT OF LOCAL GOVERNMENT FINANCE



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**TO:** All Counties, Municipalities, and Townships

**FROM:** Brian E. Bailey, Commissioner *BEB*

**RE:** Voting for Agreements to Join or Establish a Fire Territory; Fire Territory Tax Rates; Public Hearing and Notice Requirements

**DATE:** May 27, 2011

## Introduction

House Enrolled Act 1004 ("HEA 1004") introduces changes that affect the establishment and funding of fire protection territories. Specifically, HEA 1004 adds IC 36-8-19-6.3 and non-code Section 163 and amends IC 36-8-19-7. This memorandum addresses these changes.

## Voting for Agreements to Join or Establish a Fire Protection Territory

HEA 1004 adds a new section to IC 36-8-19, which addresses limitations on voting for an agreement to join or establish a fire protection territory.

Indiana Code 36-8-19-6.3 provides that:

A member of the legislative body of a unit may not vote on a proposed ordinance or resolution authorizing the unit to become a party to an agreement to join or establish a fire protection territory if that member is also an employee of:

- 1) another unit that is a participating unit in the fire protection territory; or
- 2) another unit that is proposing to become a participating unit in the fire protection territory.

For example, if John Doe is a board member for Township A and the fire chief for Town B's fire department, John would not be able to vote on the agreement between Township A and Town B to form a fire protection territory. Likewise, if John Doe is the fire chief for a fire protection territory consisting of Township A and Town B and also a board member of Township C, John could not vote on Township C's agreement to join the fire protection territory.

## Fire Protection Territory Tax Rates

HEA 1004 amends IC 36-8-19-7 to provide that a tax levied for a fire protection territory may be levied at:

- 1) a uniform rate upon all taxable property within the territory; or
- 2) different rates for the participating units included within the territory, so long as a tax rate applies uniformly to all of a unit's taxable property within the territory.

If a uniform tax rate is levied upon all taxable property within a territory upon the formation of the territory, different tax rates may be levied for the participating units included within the territory in subsequent years.

### **Public Hearing and Notice Requirements**

HEA 1004 also adds non-code Section 163 ("Section"), which imposes public hearing requirements on the establishment of a fire protection territory. The Section provides that in addition to any other requirements under IC 36-8-19-6(a), which governs the ordinance or resolution establishing the territory, the legislative body must (notwithstanding IC 36-8-19-6(a)) do the following before it may adopt the ordinance or resolution:

- 1) Hold a public hearing at least 30 days before adopting an ordinance or a resolution to form a territory at which the legislative body makes available to the public the following information:
  - A. The property tax levy, property tax rate, and budget to be imposed or adopted during the first year of the territory for each of the units that would participate in the proposed territory.
  - B. The estimated effect of the proposed reorganization in the following years on taxpayers in each of the units that would participate in the proposed territory, including the expected property tax rates, property tax levies, expenditure levels, service levels, and annual debt service payments.
  - C. The estimated effect of the proposed reorganization to other units in the county in the following years and to local option income taxes, excise taxes, and property tax circuit breaker credits.
  - D. A description of the planned services and staffing levels to be provided in the proposed territory.
  - E. A description of any capital improvements to be provided in the proposed territory.
- 2) Hold at least one additional public hearing before adopting an ordinance or a resolution to form a territory to receive public comment on the proposed ordinance or resolution. The legislative body must give notice of the hearings under IC 5-3-1.

In addition to the information required by IC 36-8-19-6(b), which governs the notice requirements for establishing a territory, the notice required under the Section must include the proposed levies and tax rates for each participating unit. The Section expires June 30, 2012.

### **Contact Information**

Questions may be directed to Staff Attorney Mike Duffy at 317-233-9219 or [mduffy@dlgf.in.gov](mailto:mduffy@dlgf.in.gov).